

ETHICS ADVISORY

If you can remember back to last fall when we conducted Annual Ethics Training, the "Do You Wanna Be an Ethics Millionaire?" game, we asked one of the contestants the question:

What is the maximum dollar amount of stock you can own in a company and still be allowed to participate in a government decision that affects the company?

- A. \$20
- B. \$300
- C. \$5000
- D. \$15,000

The contestant looked to the heavens, scratched his chin, and pondered. Still unsure, he used one of his valuable ethics life savers. He polled the audience, which in overwhelming numbers voted for the correct choice: C. \$5000.

Effective 18 April 2002, \$5000 no longer will be the correct answer. The correct answer will be: D. \$15,000. Long awaited, Office of Government Ethics' (OGE) proposed regulatory change to raise the exemption amount for stock ownership has now been published as a final regulation that takes effect on 18 April 2002. For purposes of applying the exemption, the employee must aggregate his or her stock ownership with stock owned by someone whose financial interests are imputed to him or her--spouse and minor children.

OGE has also established an exemption amount for ownership of sector mutual funds. A sector mutual fund is a mutual fund that concentrates its investments in an industry, business, single country other than the United States, or bonds of a single State within the United States. The exemption amount for sector funds is \$50,000. There already is a blanket exemption for diversified mutual funds. A diversified mutual fund is one that does not have a stated policy of concentrating its investments in any industry, business, single country other than the United States, or bonds of a single State within the United States.

Another exemption OGE has created permits an employee to act in a particular matter that affects an entity in which the employee owns securities that do not exceed \$25,000, where the entity is not a party to the matter. This exemption is difficult to explain. The best way to explain it is to see the example OGE sets out in the regulation:

"A Food and Drug Administration advisory committee is asked to review a new drug application from Alpha Drug Co. for a new lung cancer drug. A member of the advisory committee owns \$20,000 worth of stock in Mega Drug Co., which

manufactures the only similar lung cancer drug on the market. If approved, the Alpha Drug Co.'s drug would directly compete with drug sold by the Mega Drug Co., resulting in decreased sales of its lung cancer drug. The committee member may participate in the review of the new drug."

The exemption amounts for purposes of determining conflicts of interest and when an employee may participate in a particular matter are separate and distinct from what assets you must report on your OGE Form 450 or SF 278. The dollar thresholds for reporting financial interests in stocks and other securities, diversified mutual funds, and sector mutual funds are much lower than the exemption amounts. The OGE regulation on exemption amounts does not change the dollar thresholds for reporting financial interests.

Finally, Office of Command Counsel has reconstituted the Ethics Team. Besides me, the team members are:

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If you have questions about the subject matter of this Ethics Advisory or any other ethics question, do not hesitate to call. Also, I would appreciate your feedback on this advisory and your suggestions on what topics you would like to see in future advisories.

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